

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-01
INR-07 NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06
SP-02 LAB-04 SIL-01 OMB-01 NSC-05 SS-15 STR-07
CEA-01 IO-14 L-03 DOE-11 SOE-02 INT-05 /132 W
-----122073 012201Z /64

R 011800Z FEB 78
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC 8010
INFO AMEMBASSY BUENOS AIRES
AMEMBASSY LIMA
AMEMBASSY LA PAZ
AMEMBASSY BRASILIA
AMCONSUL SAO PAULO

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EO 11652: NA
TAGS: EINV, EIND, EFIN
SUBJ: UPDATE OF INVESTMENT CLIMATE STATEMENT

REF: STATE 244738

1. PARAGRAPHS BELOW ARE KEYED TO SPECIFIC TOPICS OF REFTEL BY BOTH
SUBJECT HEAD AND THE CAPITAL LETTER IN PARENTHESES IMMEDIATELY
FOLLOWING PARAGRAPH NUMBER WHICH REFERS TO THE LETTERED SUBPARAGRAPH
OF PARAGRAPH TWO, REFTEL. ADDITIONALLY, AS OF POSSIBLE INTEREST
TO THE OFFICE OF INVESTMENT AFFAIRS, SOME COLLATERAL MATERIAL
WILL BE POUCHED SEPARATELY, I.E. FOREIGN INVESTMENT STATUTE,
PROMOTIONAL MATERIAL OF THE FOREIGN INVESTMENT COMMITTEE, ETC.

2. (A) GENERAL GOVERNMENT ATTITUDE TOWARD FOREIGN PRIVATE INVEST-
MENT AND MAJOR LAWS AFFECTING INCOMING FOREIGN INVESTMENT. DIRECT
PRIVATE FOREIGN INVESTMENT IS OF CENTRAL IMPORTANCE TO CURRENT GOC
ECONOMIC POLICY AND PLANS. ACCORDINGLY, REGULATIONS HAVE RECENTLY
BEEN STREAMLINED, LIBERALIZED AND FOREIGN AND DOMESTIC
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INVESTMENT HAVE BEEN PLACED ON A MORE EQUAL FOOTING. EXCEPT
FOR THOSE SECTORS ALREADY OCCUPIED BY STATE CORPORATION MONOPOLIES-
PUBLIC UTILITIES AND SERVICES, NATIONAL DEFENSE, ATOMIC ENERGY -
FOREIGN INVESTMENT IS PERMISSABLE AND WELCOME. A NEW LAW DESIGNED
TO ATTRACT FOREIGN CAPITAL HAS BEEN PROMULGATED, AND TAX LAWS
FAVORING INVESTMENT, FOREIGN AND DOMESTIC HAVE BEEN ISSUED.
RECENT EXPRIENCE SHOWS NO DISCREPANCY BETWEEN PROVISIONS OF THE

LAW AND IMPLEMENTATION AND ENFORCEMENT. TWO RECENT GOVERNMENT MEASURES ARE ESSENTIAL TO UNDERSTANDING THE FOREIGN INVESTMENT CLIMATE AND PROCESS IN CHILE:

(A) WITHDRAWAL FROM ANDEAN PACT. CHILE WITHDREW FROM THE CARTAGENA AGREEMENT OF THE ANDEAN PACT IN OCTOBER 1976, FREEING ITSELF FROM THE VERY CIRCUMSCRIBING FOREIGN INVESTMENT STRUCTURES OF ARTICLE 14 OF THE AGREEMENT.

(B) FOREIGN INVESTMENT LAW. IN MARCH 1977, THE GOC AMENDED THE BASIC LEGISLATION GOVERNING FOREIGN INVESTMENT (DECREE LAW 600, 1974) TO THE EFFECT THAT FOREIGN AND DOMESTIC INVESTORS WERE GRANTED NEAR EQUAL TREATMENT IN ALL RESPECTS, BUT PROVIDING CERTAIN INCENTIVES TO FOREIGN CAPITAL. THE FOREIGN INVESTMENT LAW COVERS ALL FOREIGN INVESTMENTS, WHETHER IN THE FORM OF FOREIGN EXCHANGE, PHYSICAL ASSETS, TECHNOLOGY, RETAINED EARNINGS, DEBT AND CREDITS LINKED TO FOREIGN INVESTMENT. IT INCLUDES SPECIFIC PROVISIONS FOR: 1) CONTRACTS BETWEEN INVESTOR AND GOC, DELINEATING THE OBLIGATIONS OF EACH. 2) MINIMUM INVESTMENT PERIOD OF THREE YEARS (LONGER IN THE CASE OF MINING). 3) CAPITAL REPATRIATION AFTER THREE YEARS AND PROFIT IMMEDIATELY. 4) GOC GUARANTEE OF NON-DISCRIMINATORY ACCESS TO FOREIGN EXCHANGE MARKET. 5) INVESTOR OPTION FOR FIXED TAX RATE OF 49.5 PERCENT FOR 10 YEARS AND TO PRESET SALES TAX AND CUSTOMS DUTIES ON IMPORTS OF CAPITAL GOODS. 6) GOC GUARANTEE OF NON-DISCRIMINATION. 7) REVIEW AND APPROVAL OF ALL FOREIGN INVESTMENTS OF \$ 5 MILLION AND MORE BY FOREIGN INVESTMENT COMMITTEE. 8) STAFF APPROVAL FOR INVESTMENTS OF LESSER MAGNITUDE.

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3. (B) ECONOMIC FACTORS. GENERALLY, THE PRESENT GOVERNMENT IS DEDICATED TO THE RECOVERY AND RESTRUCTURING OF THE ECONOMY BASED ON THE MOST EFFICIENT ALLOCATION OF RESOURCES BY FREE MARKET PRINCIPLES. FOR DETAILED DISCUSSION OF RESOURCE BASE, SUPPLY AVAILABILITY AND INFRASTRUCTURE SEE EMBASSY ECONOMIC TRENDS REPORT A-4, JANUARY 27, 1978. DOMESTIC ECONOMIC OUTLOOK: STRONG RECOVERY WILL CONTINUE TO CHARACTERIZE ECONOMY IN 1978; INFLATION WILL FURTHER DECLINE FROM ANNUAL RATE OF 67 PERCENT IN 1977 TO 30-40 PERCENT AT THIS YEAR'S END; PRODUCTION WILL LEVEL OFF AT 6-8 PERCENT PER ANNUM. UNEMPLOYMENT (13 PERCENT), HIGH INTEREST RATES AND SLUGGISH RATE OF NEW, PRODUCTIVE INVESTMENT WILL PROBABLY CONTINUE TO BE THE TROUBLESOME AREAS.

4. (C) FINANCIAL INCENTIVES AND DISINCENTIVES. GENERALLY, THE GOC APPLIES NO SPECIAL FINANCIAL INCENTIVES OF DISINCENTIVES NOR PREFERENTIAL OR DISCRIMINATORY TARIFFS. A SINGLE EXCHANGE RATE PREVAILS. ONLY INsofar AS A FOREIGN INVESTOR CAN OPT FOR A FIXED TAX RATE FOR THE FIRST 10 YEARS (AS OPPOSED TO THE GENERAL SCHEDULE), HE IS ACCORDED PREFERENTIAL TAX TREATMENT. PROFIT REPATRIATION IS ALLOWED FROM THE OUTSET OF THE INVESTMENT AND THERE IS NO LIMIT ON THE AMOUNT. WHILE SOMETIMES SLOW AND CUMBER-

SOME, ADMINISTRATIVE PROCEDURES ARE NOT A DELIVERATE BARRIER TO INVESTMENT; BY WORLD STANDARDS THEY ARE GENERALLY EFFICIENT AND ACCOMMODATIVE.

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5. (D) DEVELOPMENT POLICY. THE GOC HAS WELL DEFINED SECTORAL AND GEOGRAPHIC PRIORITIES. APART FROM TWO NOT VERY SUCCESSFUL FREE TRADE ZONES IT OFFERS NO SPECIAL INCENTIVES. IT BELIEVES THAT IT CANNOT AFFORD TO DIFFERENTIATE AMONG POTENTIAL INVESTORS ON THE BASIS OF DEVELOPMENT POLICY. HENCE, EVERY SERIOUS PROPOSAL IS CONSIDERED. WITH GRADUALLY LOWERING TRAIFFS, INTENDED TO REACH A UNIFIED 10 PERCENT LEVEL BY JULY 1978, SUCCESSFUL INVESTMENT WILL BE THAT WHICH CAN COMPETE EFFECTIVELY WITH IMPORT COMPETITION OR IN FOREIGN MARKETS. EXPORT AND/OR LOCAL MARKET PRODUCTION QUOTAS ARE NONEXISTWANT. CONTINUED FOREIGN INVESTMENT EXPENDITURES ARE REQUIRED UP TO A MAXIMUM LIMIT, THE LEVEL AND RATE OF WHICH ARE NEOGTIATED BETWEEN THE INVESTOR AND THE GOC AT THE TIME OF THE ORIGINAL CONTRACT9 PAYMENT TO FOREIGN OWNERS FOR USE OF PATENTS AND ROYALTIES ARE SUBJECT TO A 40 PERCENT TRANSMITTAL TAX. UNDER CERTAIN CONDITIONS, HOWEVER, PAYMENTS FOR ENGINEERING AND TECHNICAL ASSISTANCE PROJECTS, PARTICULARLY WHEN THEY ACCOMPANY FOREIGN INVESTMENTS, HAVE BEEN EXEMPTED FROM THIS TAX.

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6. (E) LABOR FACTORS. BY WORLD STANDARDS, CHILE'S PRODUCTIVE AND SKILLED LABOR FORCE PROVIDES THE INVESTOR WITH A WIDE CHOICE OF APPLICABLE TECHNOLOGY. A RELATIVELY HIGH RATE OF REAL UNEMPLOYMENT (13-15 PERCENT) MEANS THAT LABOR IS PLENTIFUL AT COMPARATIVELY LOW WAGES. DEPENDING ON CATEGORY, COMPENSATION POLICY REQUIRES PAYMENT OF A 47-50 PERCENT SOCIAL SECURITY TAX. LABOR-MANAGEMENT RELATIONS HAVE BEEN GENERALLY ACCOMMODATIVE, ALTHOUGH THE GOC'S CONTINUING LOW WAGE POLICY HAS RECENTLY CAUSED SOME LABOR RESTIVENESS. UNDER STATE OF SEIGE LAW THAT GOVERNS LABOR ACTIVITIES, COLLECTIVE BARGAINING, RIGHT TO ORGANIZE, RIGHT TO STRIKE AND POLITICAL ACTIVITY IN ANY FORM ARE STRICTLY PROHIBITED.

7. (F) OWNERSHIP POLICY AND INVESTMENT DISPUTES. THERE IS NO LEGAL REQUIREMENT FOR NATIONAL PARTICIPATION IN FOREIGN INVESTMENT PROJECTS. WHILE FOREIGN EQUITY OWNERSHIP MAY BE 100 PERCENT, IT MUST BE AT LEAST 20 PERCENT IN ORDER TO QUALIFY FOR THE BENEFITS PROVIDED IN THE FOREIGN INVESTMENT LAW. MOREOVER, THERE IS NO REQUIREMENT AS TO THE NATIONALITY COMPOSITION OF LOCAL MANAGEMENT. GOC POLICY IS TO SETTLE INVESTMENT DISPUTES INFORMALLY IN NEGOTIATION BETWEEN THE INVESTOR, THE CONCERNED GOC AGENCY (CENTRAL BANK, TAX AUTHORITIES, ETC.) AND THE FOREIGN INVESTMENT COMMITTEE. A DISPUTE NOT RESOLVABLE IN THIS WAY WOULD BE REFERRED TO THE LOCAL COURTS FOR ROUTINE, LEGAL ADJUDICATION IN ACCORDANCE WITH CHILEAN LAW.

8. (G) STATUS OF OPIC PROGRAMS. OPIC HAS NO AGREEMENT IN FORCE WITH THE GOC. THEREFORE NO U.S.G. INSURANCE IS CURRENTLY AVAILABLE TO PRIVATE U.S. INVESTORS IN CHILE FOR RISKS OF WAR, INCONVERTIBILITY OF FOREIGN EXCHANGE OR EXPROPRIATION.

9. (H) IT APPEARS THE PRESENT MILITARY GOVERNMENT WILL REMAIN FOR THE FORESEEABLE FUTURE. IN TURN, MILITARY GOVERNMENT SUPPORTS

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THE POLICIES OF THEIR CIVILIAN ECONOMIC ADVISORS. FOR THE FORESEEABLE FUTURE, THEREFORE, PRESENT FOREIGN INVESTMENT POLICIES SHOULD PREVAIL. FOREIGN INVESTMENT WILL GAIN IN IMPORTANCE AS CHILE REACHES FOR FURTHER REAL ECONOMIC GROWTH.

10. (I). A. STATISTICAL INFORMATION. A. ACCORDING TO THE FOREIGN INVESTMENT COMMITTEE (MINISTRY OF FINANCE) THE TOTAL VALUE OF FOREIGN INVESTMENT CONTRACTS SIGNED AS OF OCTOBER 31, 1977 WAS \$1,203 BILLION.

DISTRIBUTION BY SECTOR OF SIGNED FOREIGN INVESTMENT CONTRACTS

SECTOR	VALUE	PERCENT
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(IN MILLIONS OF DOLLARS)

AGRICULTURE	1.6	.13
MINING	1,032.0	86.0
INDUSTRY	104.0	9.0
CONSTRUCTION	0.9	0.009
TRANSPORTATION	9.7	1.0
SERVICES	52.0	4.0
ENERGY	1.3	0.11

1,237.3

THE ABOVE TABLE DOES NOT INCLUDE TWO RECENTLY SIGNED CONTRACTS, BOTH IN THE HYDROCARBON-MINERAL SECTOR, AND BOTH BY U.S. FIRMS. ONE MAY REACH A BILLION DOLLARS. THE OTHER MAY EXCEED \$250 MILLION. THESE FIGURES REPRESENT THE AMOUNTS EXPECTED TO BE UNCLASSIFIED

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INVESTED, AND SO DEFINED IN THE CONTRACT WITH THE GOVERNMENT. THEY DO NOT REPRESENT EITHER BOOK VALUE OR AMOUNTS ALREADY SPENT BY THE INVESTOR. AT THIS TIME IT IS NOT POSSIBLE TO DETERMINE THE AMOUNT OF INVESTMENT THAT HAS ACTUALLY BEEN MADE. IN TERMS OF THE AMOUNTS AUTHORIZED, HOWEVER, THE FOREIGN INVESTMENT COMMITTEE HAS REVEALED THE FOLLOWING ORDERING OF FOREIGN INVESTOR COUNTRIES:

COUNTRY	NO. OF PROJECTS (US MILLION)	VALUE	PERCENT
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CANADA	9	607,925	50.5
UNITED STATES	76	422,917	35.1
WEST GERMANY	20	42,001	3.6
PANAMA	24	42,463	3.5
ENGLAND	21	18,233	1.5
SWITZERLAND	19	16,692	1.4
BRAZIL	7	12,417	1.0

ALTHOUGH THE FOREIGN INVESTMENT COMMITTEE HAS NOT YET RELEASED NEW OFFICIAL FIGURES, ACCOUNTING FOR THE TWO RECENT U.S. MINERALS INVESTMENTS (\$1 BILLION) THE US IS CLEARLY NOW IN THE LEAD BY A WIDE MARGIN. MOREOVER, IT IS ASSUMED THAT A MAJORITY OF THE AMOUNT LISTED UNDER "PANAMA" REPRESENTS OFF-SHORE VENTURES OF OECD COUNTRIES AND PARTICULARLY U.S. FIRMS.

B. WHILE RELIABLE STATISTICS ARE NOT AVAILABLE, THE BOOK VALUE OF TOTAL, ACTUAL U.S. INVESTMENT IS ESTIMATED AT \$300
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MILLION REPRESENTING 76 SEPARATE ENTERPRISES. THIS FIGURE EXCLUDES THE TWO MINERAL INVESTMENTS REFERED TO ABOVE.
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Message Attributes

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Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3441661
Secure: OPEN
Status: NATIVE
Subject: UPDATE OF INVESTMENT CLIMATE STATEMENT
TAGS: EINV, EIND, EFIN
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/7d906dcd-c288-dd11-92da-001cc4696bcc
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